

REMARKS/ARGUMENTS

Claims 1-9 are pending.

In the outstanding Office Action Claims 1-9 were rejected as being unpatentable over Lim et al. (U.S. Patent No. 6,574,599, hereinafter Lim) in view of Tzirke-Hancock (U.S. Patent No. 5,960,395) in further view of Ortega et al. (U.S. Patent No. 6,182,046, hereinafter Ortega).

As many of the remarks herein are supported by the remarks provided in the response filed May 19, 2004, the entire response filed on May 19, 2004 is incorporated herein by reference.

Claim 1 is directed to a communication apparatus, that includes a program-activating means. The program-activating means includes a "status detecting means" for determining whether a predetermined program is activated already" and for "judging whether to issue a local command that is specific to controlling the predetermined program based on whether the predetermined program is already activated". This "status detecting means" is to be construed under 35 U.S.C. § 112, sixth paragraph and includes a first function of "determining whether a predetermined program is activated already", and a second function of "judging"... . Support for this feature (i.e., corresponding structure and acts) is found at least at page 27, last paragraph continuing to the first full paragraph at page 29, for example.

M.P.E.P. §2182 (see M.P.E.P. page 2100-227, rev. 2, May 2004) clearly explains that the first step in construing a means-plus-function claim limitation is to define the particular function of the claim limitation. In this case, the status detecting means includes two functions ("determining"... , and "judging"...). It is respectfully submitted that none of the three asserted prior art references disclose the "determining" and "judging" functions. Because these features are absent in the asserted prior art, it is respectfully submitted that the

outstanding Office Action has failed to create *prima facie* case of obviousness (failing to identify all the elements of the pending claim).

Moreover, the outstanding Office Action admits that neither Lim nor Tzirkel-Hancock disclose “monitoring if the predetermined program is active for the word command”, but asserts Ortega for this feature (Office Action page 3, second full paragraph). However, the feature described in the outstanding Office Action is not the claimed function. Rather, the claimed function is a status detecting means for “determining”, and “judging”. The passages in Ortega asserted in the outstanding Office Action (namely column 3, lines 10-25 and lines 60-67) are directed to a graphical user interface, that lists commands (26) for an active program. The list of commands for an active program “responds to inputs from the keyboard or other controllers”. (Column 3, lines 17-19). Column 3, lines 60-67 in Ortega explain that the list of commands are for a current active window of an application.

In contrast, Claim 1 requires the function of judging whether to issue a local command that is specific to controlling the predetermined program based on whether the predetermined program is already activated, as determined by the “means for determining”. It is respectfully submitted that Ortega does not teach or suggest this feature and does not perform the function of both determining and judging, as claimed in Claim 1. Consequently, it is respectfully submitted that Claim 1 patentably defines over the combination of Lim in view of Tzirkel-Hancock and Ortega. As Claims 2-4 are of differing scope and/or statutory class, it is respectfully submitted that the arguments provided above with regard to Claim 1 also apply to Claims 2-9.

Consequently, in view of the foregoing comments it is respectfully submitted that the inventions defined by Claims 1-9 is patentably distinguishing over the prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number

22850

Tel: (703) 413-3000

Fax: (703) 413 -2220

(OSMMN 06/04)

BDL:smi

I:\ATTY\BDL\203780US-AM3.DOC